

BEBINGTON HIGH SPORTS COLLEGE



STUDENT DISCIPLINE **& EXCLUSION POLICY**

Agreed/Reviewed by Governors

This disciplinary policy is written following the guidelines set out below in section A

Section A outlines the DCSF guidelines

Section B is BHSC Disciplinary and Exclusions Policy

The Policy should be read alongside the following:

- the school development plan
- the attendance policy
- the anti-bullying policy
- the complaints policy
- the Drugs policy
- the school's memorandum on 'justifiable restraint'

SECTION A

STUDENT DISCIPLINE and EXCLUSION POLICY GUIDANCE

MANAGEMENT OF STUDENTS

Student Discipline: Points of Law and Policies

Student discipline is covered by s61 of the **School Standards and Framework ACT 1998 (SSFA 1998)**, with guidance in **Circular 10/99**.

Governing bodies of maintained schools are charged with the duty to have policies designed to promote good behaviour and discipline. The governing body has to set the framework of the school's policy by providing a written statement of general principles relating to discipline, taking into account the needs of all students. Before writing it the governors must consult the Head and parents of students at the school. It should be reviewed regularly.

The governors' statement should cover:

- the ethos of the school, its values and the boundaries of acceptable behaviour
- the school's moral code
- positive and constructive rules of conduct
- rewards and punishments to be fairly and consistently applied

(Circular 10/99 Annex B)

The Head's role is to determine the standard of behaviour acceptable to the school, to the extent that this has not been determined by the governing body. The Head has the day-to-day responsibility for maintaining discipline in the school, which will include making rules and provision for enforcing them.

The Head has to:

- promote self discipline and proper regard for authority among students
- encourage good behaviour and respect for others, and to prevent all forms of bullying among students
- secure that the standard of behaviour is acceptable
- otherwise regulate the conduct of students

(SSFA s61 and Circular 10/99 para 5)

The discipline policy should:

- define the standards of behaviour the school wants
- seek the widest possible agreement.
- ensure that the standards are consistently and fairly applied
- ensure that punishments are proportionate to the offence, and enable students to make reparation where possible

Punishments

Any punishments must not be degrading or humiliating, or they may fall foul of Article 3 of the European Convention of Human Rights which are now contained in the Human Rights Act 1998.

The use of detention in schools is under attack in Scotland. If a court challenge is successful it may have a knock-on effect in the rest of the UK.

(See Quick Guide Document PD3)

Sanctions suggested in Circular 10/99 include removal from the group/class or particular lesson; withdrawal of break or lunchtime privileges; detention; withholding participation in educational visits or sports events which are not essential to the curriculum; completion of work or extra work; or carrying out a useful task in the school.

Consultation

Heads must seek wide agreement for the policy and should involve staff and parents. School should also consider drawing students into the consultation. Lawyers have pointed out that Article 12 of the UN Convention on the Rights of the Child should allow children who are capable of forming views the right to express those views. Circular 10/99 also suggests that students can help to reinforce behaviour policies by contributing to them., and by active involvement in anti-bullying policies.

(Circular 10/99 Annex B)

Publication

The Head must publicise the policy at least once per year to students, parents and staff. It should be made accessible to parents whose first language is not English. Schools should consider translating the policy as appropriate.

(Circular 10/99 Annex B) The LA's Role

LA's retain powers to take steps to prevent the breakdown or continuing breakdown of discipline at the school. They can exercise these powers if in Form PD1 the opinion of the LA the behaviour of the students or actions taken by them or their parents is such that the education of other students is, or is likely to be, seriously prejudiced. They can only act after the governing body has been informed of their opinion in writing.

(S62SSFA1998)

They can also exercise these powers if:

- the standards of students are unacceptably low
- there has been a serious breakdown in the way the school is governed which is prejudicing standards
- the safety of staff and students is threatened
- and the governing body has failed to improve the situation to the LA's satisfaction within the reasonable time limit set out in the notice to them.

(S15SSFA1998)

STUDENT DISCIPLINE: SANCTIONS AGAINST PARENTS

If parents use threatening behaviour in school, a school is entitled to take action against them.

Parents are only allowed into a school by an implied licence to enter it. This can be revoked by the Head acting on behalf of the governors. It can be done orally or in writing. Heads are not obliged to carry out formal investigations, but before revoking the licence the school must give the parent an opportunity to make representations against the ban. It would be possible in urgent cases to ban the parent temporarily while the Head sought further advice, or considered the matter more fully.

The court in *Wandsworth C.C. v A* 2000 said that it is sufficient if a Head writes to a parent asking for his/her comments, giving a short time to reply.

Where a ban is in force the parent will commit an offence if he/she enters the premises and causes a nuisance or disturbance to the annoyance of people who lawfully use the premises. It is not clear whether the parent commits an offence if he/she enters the premises in contravention of the ban but does not cause a disturbance. Therefore, where parents' behaviour has been extreme schools have sought a judicial injunction forbidding a parent from entering the premises. A breach of this may lead to a court remedy.

(Education Act 1996 s547)

It is not generally acceptable to exclude a child because of the behaviour of his/her parents. But in *R v Board of Governors of Bryan Elian School, ex parte Whippe* 1999, the court held that if the way that the parent had behaved could have a detrimental effect on the child's behaviour in school, an exclusion could be justified. These were very exceptional circumstances.

Home-School Agreements

All maintained schools and city technology colleges must adopt home-school agreements along with parental declarations.

The agreement is defined in the legislation as a statement prepared by the school specifying:

- the aims and values of the school
- the school's responsibilities towards students of compulsory school age
- parental responsibilities that the school expects in connection with the child's education
- the school's expectations of its students with regard to conduct

A Parental Declaration is a document in which parents record that they have noted the school's aims, values and responsibilities, and the school's expectations.

In discharging their functions the governing body must have regard to the guidance issued by the Secretary of State.

Breaches of the terms of the Agreement are not actionable in the courts, nor can parents sue the school for its alleged failure to carry out the terms of the agreement. Neither can the governing body exclude or otherwise discipline a student, nor punish parents for the parents' refusal to sign a parental declaration. Neither is the breach of a home-school agreement a basis for excluding a student. Exclusion must be for a defined disciplinary offence.

Nor can it be a condition for the return of a student after exclusion that the parent should sign a home-school agreement. However, this does not prevent governing bodies drawing up separate agreements for individual students as 'good behaviour contracts', setting out what is expected of the student in improving his/her self-discipline.

(SSFA 1998 s110 and the Department's Home-School Agreements: Guidance for Schools)

DETENTION: POINTS OF LAW

S550B of the Education Act 1996 covers the giving of detentions on disciplinary grounds. This section gives schools the right to detain students after the end of a school session, even without parental consent, so long as certain conditions are fulfilled.

- Heads must ensure that parents, students and staff are aware that the school uses detention as a sanction, and is a sanction that parents might expect to receive if a student misbehaves. The information should normally be given in the school prospectus, but other means could be used.
- The detention must be on reasonable grounds and proportionate to the offence.
- When considering the imposition of a detention the school must consider:
 - the student's age
 - whether parents can make alternative arrangements for their child to travel home if they cannot collect him/her
 - any special educational needs (and disabilities) and any
 - religious requirements

Timings

Detentions can be imposed at other times than after school or lunchtimes. For example, Saturday morning detentions are allowed, but in these cases the student and parents must agree voluntarily.

Notice

The school must give parents at least 24 hours notice in writing of a detention. The note must state:

- why the detention is being given
- when it is to take place
- where it is to take place
- for how long the student will be required to remain at school

The parent must have time to raise problems, and so a detention imposed on a Monday could not take place until Wednesday. The notice can be posted or delivered by other means including student post.

The advice is that notifying one parent (or person with parental responsibility and custody) should suffice. The Head would be expected to use common-sense in deciding this.

Parental Objections

Parents may object to the detention. The Head then has to consider whether to:

- withdraw the detention
- defer it
- continue with it

The decision could be taken by the Head or another teacher authorised by the Head.

There is no right of appeal to the governing body, but parents can complain under the school's normal complaints procedure. The governing body, however, cannot overturn a decision to continue with the detention if they hear a complaint before the detention takes place.

Failure to Attend

If a student fails to attend the detention the Head has to determine how to deal with the original misbehaviour and the absence. So long as the new punishment is proportionate a more severe sanction could be imposed.

S550A of the Education Act 1996 covers physical restraint, which includes restraining students attempting to leave a detention. Guidance is given in Circular 10/98 Section 550A of the Education Act 1996: the use of force to control or restrain students.

Human Rights Considerations

In 2003 a student in Scotland began suing Moray Council on the grounds that her secondary school was too free with its use of detention as a sanction. She claimed that Article 5 of the European Convention on Human Rights, the right to liberty and security, made it illegal to detain children in a school against their will. Her solicitor went so far as to say that the only way for a school to issue detentions is to get a court order every time. He based this view on his interpretation of the passage in Article 5 which says that the detention of a minor 'for the purpose of educational supervision 'must be by lawful order'¹.

Lawyers in England and Wales might argue that all detentions by teachers in English and Welsh schools are lawful as they stem from the duty laid on governing bodies and Heads to determine measures to promote good behaviour and to 'regulate the conduct of students'.

The strong position of English and Welsh schools is further underlined by the fact that Convention rights are not permitted to override primary legislation. In England and Wales schools are allowed to give after-school detentions to students under 18 even without parental consent, so long as the conditions outlined above are met.

In order to determine whether a detention is 'reasonable', the law requires schools to take into account - whether the detention is proportionate to the circumstances; any relevant special circumstances, including the student's age, any special educational needs, religious arrangements affecting the student, and the travel arrangements after the detention.

CORPORAL PUNISHMENT AND JUSTIFIABLE RESTRAINT

Since the advent of the **School Standards and Framework Act 1998** corporal punishment has been banned in all schools. Previously, since 1986, it had been banned in all maintained schools and for all children funded by the government who had been receiving education at other schools.

Corporal punishment is defined in s **548 of the Education Act 1996** as doing anything to a child which would constitute battery.

However, it is made clear in the same section that anything done to avert immediate danger of personal injury (including physical restraint), or damage to property, would not be considered corporal punishment. It is important to note that even in such circumstances there must not be any element of punishment in the restraint.

Power to use reasonable force

S550A of the Education Act 1996 (inserted into that Act by **s4 of the Education Act 1997**) gives teachers the right, if authorised by the Head, to use reasonable force to prevent a student from doing any of the following:

- committing a criminal offence
- injuring themselves or others
- damaging property, including their own
- behaving in a way which is prejudicial to the good discipline and order of the school whether in the classroom or elsewhere where the teacher has lawful control of the student.

Guidance is given in the Circular 10/98 Section 550A of the Education Act 1996: The Use of Force to Control or Restrain Students.

Definition of Reasonable Force

There is no legal definition of 'reasonable force', and Circular 10/98 does not describe when it might be used with impunity. The Circular points out that it is the circumstances surrounding a particular incident which make the use of force reasonable, and warrant its use when other means might have been used.

The kind and degree of force used also has to be proportionate to the offence, and the minimum necessary to bring the behaviour under control.

The Circular gives examples of situations where reasonable force might be justified. These include:

- a student fighting another
- a student attacking a teacher
- acts of vandalism, rough play, running in a corridor, or misuse of objects which might cause personal injury or damage to property
- refusal by a disruptive student to leave the classroom

The Circular urges staff to exercise caution in the use of force and to always try other strategies to resolve a situation, particularly if there is no immediate threat of personal injury and damage.

The Circular also expresses the view that the use of any force to achieve compliance with instructions becomes increasingly inappropriate as students get older.

Degree of Force

The Circular is at pains to point out that staff should not use any force that might inflict pain such as striking a student, or holding them by the neck, or pulling hair, or acting in any way that might be considered indecent.

Comment

If a matter came to a court, the court would have to determine whether the particular force used in the circumstances came within a reasonable range of responses to the situation. In order to determine this it is likely that the court would listen to the views of expert witnesses, and to consider any similar cases and judgements.

Implications for School Management

The Circular advises Heads to draw up a policy for the use of force to control or restrain students.

The policy should be drawn up after consultation with staff and the governing body.

The policy should include guidelines on which strategies are acceptable and which are not.

Once agreed the policy should be made known to staff, parents and students. It should be included in the information to parents about the school's policies on discipline and standards of behaviour.

Keeping Records

When force has been used a senior member of staff should be informed. In many schools this is likely to be either the Head or the named member of staff who has responsibility in the school for child protection issues.

The Circular emphasises the importance of keeping detailed, up-to-date, written records of all incidents where force of any kind has been used.

The record should include:

- name of member of staff
- date of the incident
- names of students involved
- witnesses
- where the incident took place
- description of the incident
- any steps taken to calm the situation before force was considered necessary
- reason why the use of force was necessary
- nature of the force used
- the student's response
- the outcome
- details of any injury suffered or damage to property

Complaints

Parents can complain about the policy and its implementation via the school's normal complaints procedure, but the Circular suggests that by involving parents in the consultation phase many complaints will be avoided.

Occasionally complaints may result in allegations about staff, and in staff disciplinary procedures, or even in the involvement of the police.

The Circular points to the guidance to Heads contained in **Circular 10/95 Protecting Children from Abuse**. This guidance has been partially revised in the joint NEOST/teacher union guidance on '**Staff Facing an Allegation of Abuse**'.

GUIDANCE ON EXCLUSION FROM SCHOOLS AND STUDENT REFERRAL UNITS

Background

The DCSF has produced a 5-part guide to exclusions for schools and PRUs entitled, Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Student Referral Units (PRUs)'.

The guidance refers to maintained schools, but much of it could be of interest to independent schools, since it represents the Secretary of State's Views on good practice, and sets out to ensure that schools balance the needs of excluded students with the needs of the wider school community.

All interested parties as far as maintained schools are concerned, (Heads, governing bodies, LAs and Independent Appeal Panels) are legally obliged to have regard to the guidance.

The guidance is a very helpful document in that due account has been taken of recent legislation, particularly the Education Act 2002 (and the relevant accompanying Regulations), the Disability Discrimination Act as amended by the Special Educational Needs and Disability Act 2001 and the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000. It is also interesting to note the Secretary of State's stance on certain issues.

Advice

- Heads and governing bodies should adapt and modify their procedures and practices in the light of the Guidance and then ensure that they act in accordance with their new procedures and policies.
- Though the Guidance does not affect independent schools, it is recommended that they also undertake a review of their policies and procedures to reflect the spirit and the letter of the new Guidance in the interests of natural justice.

GUIDANCE

Part 1:

The Decision to Exclude

1. Students should **only be excluded**:
 - in cases of a serious breach of the school's behaviour/discipline policy **and** if the continued presence of the excludee in the school would seriously damage the education or the welfare of other students or staff.
2. Only the Head or the teacher in charge of a PRU can exclude (or the person in charge on the day, if they are absent from school).
3. A decision to exclude a student permanently, as befitting its gravity, should only be taken as a last resort when a wide range of strategies for dealing with disciplinary

offences has been employed to no avail or if an exceptional 'one-off offence has been committed, e.g.:

- serious violence, actual or threatened, against a student or member of staff;
- sexual abuse or assault;
- supplying an illegal drug;
- carrying an offensive weapon.

4. In such cases, the Secretary of State would not expect the student to be reinstated.

Drug-related Exclusions

Any decision to exclude should be based on the criteria spelled out in the school's drug policy (which should also cover the school's approach to legal drugs) and the school's drug co-ordinator should be consulted.

Factors to be considered before an exclusion

1. an appropriate **investigation** has been conducted;
2. **all** the **relevant evidence** has been considered;
3. the student's version has been heard;
4. if appropriate, other people have been consulted (not a member of the Discipline Committee)

If the balance of probabilities has been established, the student may be excluded.

Alternatives

For example:

1. a restorative justice process - whereby the harm caused to the 'victim' can be redressed;
2. internal exclusion (removal from class, but not the site);
3. a managed move to another school.

When Exclusion Is Inappropriate

In cases of:

- minor breaches of discipline;
- poor academic performance;
- truancy or lateness;
- pregnancy;
- non-compliance with uniform regulations; and in response to
- the (unacceptable) behaviour/attitude/conduct of a student's parents.

Length of Fixed Term Exclusions

Heads are permitted to exclude a student for one or more fixed term periods not exceeding 45 school days in any one school year. Indefinite exclusions (e.g., until a meeting can be arranged) are not permissible.

Schools must continue to provide education for an excluded student (whilst he/she remains on roll) and in the case e.g., of an exclusion of more than 15 days, thought should be given to the following:

- how the student's education will continue;
- how his/her problems might be addressed in the interim;
- reintegration post-exclusion.

Lunch-time Exclusion

A disruptive student may be excluded from the site for the duration of the lunch break. Again, it should be noted that indefinite exclusions are illegal.

Parental Co-operation

Where a parent refuses to abide by the terms of a fixed term exclusion (e.g., by collection the child), schools will continue to be responsible for the student's welfare until alternative arrangements can be made (e.g., via the LA's legal remedies or by notifying the EWO).

Review and Appeal procedures

- Governing bodies have a responsibility for reviewing promptly all permanent exclusions and all fixed term exclusions of over 15 days in a school term or if the student were to miss a public examination.
- Arrangements must also be in place to review fixed term exclusions over 5 days but not more than 15 days if the parent has asked to make representations.
- The LA is required to arrange a meeting of the Independent Appeals Panel in cases of permanent exclusion, where the student has not been reinstated by the Governors' Discipline Committee.

Procedures Following Permanent Exclusion

It should be noted that:

- a permanently excluded student remains on roll until an appeal has been heard or the time limit for lodging an appeal has passed;
- the school must continue to provide for the student's education whilst he/she remains on roll;
- the LA is obliged to withdraw the student's unit funding with immediate effect following the Discipline Committee's decision not to reinstate. This would be restored to the school if an appeal proved successful;
- the LA assumes responsibility for the student's education when he/she is removed from the school's roll.

Reintegration Meetings

These are recommended after the expiry of a fixed term exclusion.

Behaviour Outside School

Schools are able to treat poor behaviour off-site (e.g., on trips, work experience placements, visits or in the vicinity of the school) as if it had occurred on the premises and serious instances of ill-discipline could warrant a fixed term or a permanent exclusion.

Students with SEN

The guidance discourages the permanent exclusion of a student with a statement of SEN (and of those being supported at School action or School action plus under the SEN Code of Practice) except in exceptional circumstances.

Where a statemented student has been permanently excluded, the Head should liaise with the LA to determine whether more support could be provided for the student or whether the statement could be amended to name another school. If either of these options proves possible, the decision to exclude permanently should be withdrawn before the Discipline Committee meets to hear the case.

Schools are encouraged to inform the parents of students with SEN, who have been excluded, that advice and assistance are available from their local SEN Parent Partnership.

Disabled Students

Schools are required to ensure that disabled students are not treated less favourably in matters of exclusion than other students without justification and to demonstrate that there are no reasonable adjustments that they could have made to their policies and practice, which might have averted the need for exclusion. They are strongly advised to refer to the Code of Practice (which inter alia covers their responsibilities in relation to exclusion) published by the Disability Rights Commission (cf. www.drc-gb.org).

It should be noted that in respect of appeals where discrimination is alleged:

- in cases of permanent exclusion, the appeal will be heard by the Independent Appeal Panel; and
- in cases of fixed term exclusion, the appeal will be heard by the SEN and Disability Tribunal.

Race Relations

Schools are legally obliged to ensure that they do not discriminate against students on racial grounds in relation to exclusion. They are, moreover, required to assess the impact of their policies on different racial groups and to monitor by ethnicity to ensure that some students are not treated more harshly than others with reference to all sanctions invoked, including exclusion.

Schools are again strongly exhorted to refer to the relevant documentation (e.g., the Code of Practice on the Duty to Promote Race Equality and the non-statutory guide, *The Duty to Promote Race Equality: a Guide for Schools*, both published by the CRE), which may be purchased from the Stationery Office.

Children in Public Care

Schools should endeavour to keep students in public care in school if at all possible, because they are particularly vulnerable, and should liaise with the LA, Social Services and other sources of professional advice to avoid exclusion.

When such students are excluded, all the 'parents' concerned (e.g., anyone who has a parental responsibility, including the LA, where they have a care order and a foster parent, as well as the child's birth parents) have a right to make representations and to appeal.

The Role of the Secretary of State

It should be noted that the Secretary of State:

- provides guidance to which due regard must be paid;
- can consider complaints about the operation of the exclusion procedure by the Discipline Committee;
- has no power to affect the decision of an Independent Appeal Panel.

Part 2:

Procedure for Excluding a Student: the Role of the Head

1. Informing Parents about the Exclusion

- Parents should be notified without delay (by telephone, with a follow-up letter within one school day) and should be given the following information:
 - in cases of fixed term exclusions, the length of the exclusion;
 - in cases of permanent exclusion, that it is a permanent exclusion;
 - the reasons for the exclusion;
 - their right to make representations to the Discipline Committee;
 - the name of the person to be contacted, if they wish to make representations.

The letter to parents should also state:

- the latest date by which the Discipline Committee must meet to consider the case;
- the parent's right of access to the student's school record;
- the date and time when the student should return to school (with a fixed term exclusion) or the number of lunch-times for which the student is excluded (with lunch-time exclusions);
- with a permanent exclusion, its immediate effect and any relevant previous history;
- arrangements for the setting and marking of work (it is the parent's responsibility to ensure that work sent home is completed and returned to school);
- the name and telephone number of the LA officer to be contacted for advice;
- the telephone number of ACE (the Advisory Centre for Education).

In the case of exclusions from a PRU, similar provisions apply, except that:

- parents have a right to make representations to the LA, not the Discipline Committee;
and, in the case of a permanent exclusion,
- the letter should refer to the parents' right to appeal to an Independent Appeal Panel; and
- the date by which an appeal should be lodged (within 15 days of receiving notice of the exclusion).

Changed decisions:

- if vital additional evidence comes to light during the process, a fixed term exclusion may be converted to a permanent exclusion (the Head is required to notify parents formally of the reasons for the change);
- Heads may withdraw an exclusion that has not been reviewed by the Discipline Committee.

Four model letters are provided as exemplars for Heads and teachers i/c PRUs to write to parents.

They relate to:

- notification of a fixed term exclusion of less than 6 days and where a public examination is not missed;
- notification of a fixed term exclusion of 6 to 15 days (or where cumulative exclusions fall within this range in the same term) or where a public examination is missed;
- notification of a fixed term exclusion of 16 days or more (or where cumulative exclusions amount to 16 days or more in aggregate in the same term);
- notification of a permanent exclusion.

2. Informing the Discipline Committee and the LA

- The Head is required to inform the Governors' Discipline Committee and the LA within one school day of:
 - permanent exclusions;
 - exclusions totalling more than 5 school days or 10 lunch-times per term;
 - exclusions necessitating a student missing a public examination.
- Fixed term exclusions amounting to 5 or fewer school days or 10 or fewer lunch-times (or half days) in toto per term must be reported to the Discipline Committee and the LA on a termly basis.
- Heads (and teachers i/c PRUs) should include the following in their exclusion reports;
 - the name of the student;
 - the duration of the exclusion;
 - the reason(s) for the exclusion;
 - the student's age, gender and ethnicity;
 - whether the student is statemented or is on School Action or School Action Plus;
 - whether he/she is in Local Authority care.

Part 3:

The Responsibilities of the Discipline Committee

1. The Discipline Committee

- Governing bodies are obliged to establish a Discipline Committee to review exclusions and consider any representations from parents. Reinstatement must be considered where this is a practical option;
- governing bodies are advised to nominate a pool of governors from whom 3 or 5 are selected to serve as the Discipline Committee (the quorum is 3) and should appoint a clerk. In cases where 4 governors consider an exclusion the chair has the casting vote;
- more than one exclusion may be considered at any one meeting (provided that the statutory time-limits are observed in each case);
- in cases where a student will miss a public examination as a result of exclusion, the Discipline Committee should endeavour to meet before the date of the examination. In extremis with fixed term exclusions, the chair of the Committee may consider the exclusion on his/her own and may reinstate.

2. Discipline Committee Meetings re. Exclusions

- a) On being informed of an exclusion by the Head, the clerk or chair must:
- with fixed term exclusions totalling fewer than 6 school days in one term, convene a meeting of the Discipline Committee to consider representations from the parents (if these have been made), but the student cannot be reinstated;
 - in the case of fixed term exclusions totalling more than 5, but not more than 15 school days, in any one term, convene a meeting to review the exclusion if the parents have asked to make representations between the 6th and the 50th school day after being notified of the exclusion;
 - in cases of permanent exclusion or where one or more fixed term exclusions add up to more than 15 days in any one term, arrange a meeting to review the exclusion between the 6th and the 15th school day after being notified of the exclusion;
 - invite the parent, Head and an LA officer to attend at a mutually convenient time and place;

and should:

- request written statements before the meeting;
 - circulate any such written statements (including any statements from witnesses) and a list of those due to attend in advance to all interested parties.
- b) The meeting should be conducted in accordance with the principles set out in Part 4 (cf. below). The parent may be accompanied by a friend or a legal representative. The excluded student would usually be allowed to attend and to speak, if the parent requests this. A student aged 18 or over is allowed to attend and to make representations in his/her own right.

- c) The Committee must comply with the statutory time limits, but is not absolved of its legal duties in the event of non-compliance (i.e., its decision remains valid even if it was made out of time).

3. Procedure at the Discipline Committee Meeting

- The LA should send a representative to all permanent exclusion hearings and to longer fixed term exclusion meetings if possible (but it is not required to do so) - their role is to provide information about approaches adopted in the area, to comment on the appropriateness of the exclusion and to advise on alternative provision for the student's education if the exclusion is upheld;
- the Discipline Committee should ask all the other parties (including the LA representative) to withdraw when it makes its decision (the clerk may be asked to stay to advise);
- when reinstatement is practicable, the Committee should consider whether to direct the reinstatement of the student or not, having regard to:
 - any representations made by the parent, the student and the LA officer (including the officer's view on the extent of the support that could be made available to facilitate the reintegration of the student);
 - whether the Head has complied with the Secretary of State's guidance before making his/her decision to exclude the student;
 - in cases where reinstatement is not practical (e.g., if the student has already returned to school after a fixed term exclusion or the parent indicates that he/she does not want the student reinstated), the Committee must nonetheless consider whether the Head's decision to exclude was justified on the basis of the evidence (the outcome of the Committee's review should be added to the student's school record);
- the Discipline Committee should notify the Head, the parent (the student if aged 18 or over), and the LA of its decision in writing within one school day of the hearing, stating its reasons. No conditions may be attached to any direction issued to the Head to reinstate the student;
- in cases where reinstatement of a permanently excluded student is not directed, the Committee should include the following in its letter to the parent:
 - the reason for the decision;
 - their right of appeal to an Independent Appeal Panel;
 - the date by which an appeal should be lodged (15 school days after the day when written notification was issued);
 - a statement that any appeal must set out the grounds on which the appeal is made;
- copies of the relevant documentation, including the Committee's letter communicating the decision not to reinstate the student should be added to the student's school record;

PRUs

The LA is obliged to review fixed term exclusions from PRUs and to take account of parental representations.

In cases of fixed term exclusions totalling more than 15 school days in any one term, the LA must consider whether to reinstate the student (if it is practical to do so). The parent (and the teacher i/c the PRU) must be allowed to make oral representations -within the same time-scales as apply to Discipline Committees.

- A model letter from the clerk of the Discipline Committee to the parent of a permanently excluded student upholding the permanent exclusion is provided at the end of this section as an exemplar.

Part 4:

Independent Appeal Panels

In the letter to the parent in cases where a permanent exclusion has been upheld, the Discipline Committee (or the teacher i/c a PRU) is required to indicate the reason for its decision and the last date for lodging an appeal and to explain that the grounds for the appeal should be outlined in writing.

The LA should also write to parents within 3 working days with the same information and to notify them of the name and contact details of the clerk to the appeal panel.

An appeal that is lodged after the deadline specified should be rejected.

a) The Timing of the Hearing

The appeal panel must meet no later than the 15th school day after the day on which the appeal was lodged to consider the appeal. Adjournments are permitted in cases where the particular circumstances warrant it.

b) Combined Appeals

Where appeals are connected, they may be considered at the same meeting (though the panel is advised to determine that none of the parties objects to such an approach).

c) Composition of Appeal Panels

The panel must be composed of 3 or 5 members from each of the 3 categories listed below:

- i) the chair must be a lay member (someone who has not worked in school in a paid capacity);
- ii) one must be a governor of a maintained school (for a minimum of 12 consecutive months in the last 6 years), who is not or has not been a teacher or Headteacher;
- iii) one must be or have been in the last 5 years the Head of a maintained school (or teacher i/c PRU).

It is suggested that the governor and Head should have appropriate phase experience. The following are not eligible to serve as panel members:

- any member of the LA or the governing body of the excluding school;
- an employee of the governing body or the LA (apart from a Head in another school in the same LA);
- the Head of the school (or anyone who has been the Head in the last 5 years);
- anyone whose impartiality might be compromised by a connection with an interested party.

Panel members should find the DCSF training pack helpful.

d) Role of the Clerk

The clerk is there to provide independent advice on procedure. He/she should not have served as the clerk to the Discipline Committee hearing.

e) In advance of the Hearing

The LA is responsible for making the necessary arrangements for the date and venue.

The following are entitled to attend:

- The parent (accompanied by a legal representative or a friend);
- The Head;
- A nominated governor (usually from the Discipline Committee);
- A nominated LA officer;
- A legal representative of the governing body;
- The student if aged over 18.

An excluded student under the age of 18 should normally be allowed to attend and to speak if the parent agrees.

The clerk is required to circulate all the relevant documentation (this must include the statement of the Discipline Committee's decision, details of those attending and an outline of the order of events) to all parties at LAst 5 working days before the date set for the hearing. The Head, governing body and the LA may submit written representations.

f) The Appeal Hearing

- It is for the appeal panel to determine how proceedings should be conducted.
- The chair is advised to emphasise the independence of the panel and to outline the procedure to be followed in his/her opening remarks.
- The clerk should explain the order of events and that there will be opportunities for questioning at the end of each presentation.
- Sufficient time must be allowed for each party to present their case.

An appeal cannot continue if the panel membership drops below 3.

Once an appeal has begun, no panel member may be substituted (thus in the event of illness or death a new panel will have to be convened).

g) Reaching a Decision

The panel is required to decide on the balance of probabilities if the student did what he/she is alleged to have done, having regard to:

- whether the Head and the Discipline Committee complied with the law and had due regard to the DCSF Guidance;
- the school's published behaviour and equal opportunities policies and any other relevant policy;

- the fairness of the exclusion.

The panel must then determine whether to uphold the permanent exclusion or not and whether to direct the student's re-instatement or not, taking care to balance the interests of the excluded student against those of all the other members of the school community.

Where a parent has appealed against permanent exclusion and alleged racial discrimination or disability discrimination, the panel is required to consider whether discrimination has occurred in relation to the Race Relations Act or the Disability Discrimination Act.

g) Evidence and Witnesses

- All parties may introduce new evidence relating to the exclusion.
- The school, however, may not put forward any new reasons for the exclusion.
- The governing body may wish to call witnesses - in the case of students at the school written statements should normally suffice.
- All written statements should be signed and attributed.
- The calling of character witnesses is at the panel's discretion, but should not be unreasonably denied.

h) The Decision

The panel may uphold the permanent exclusion, direct re-instatement (immediately or at some future date) or decide that for special considerations (e.g., an irretrievable breakdown of relations between student and teachers, the parent and the school or between the student and other students) re-instatement is not a sensible option, even though such a direction would otherwise have been appropriate.

In the case of a direction to re-instate, the date specified must be reasonable. No conditions may be attached to a re-instatement.

Where the panel considers that re-instatement would have been justified but is not appropriate, this judgement and the attendant reasoning should be included in the decision letter (which should be added to the student's record for future reference).

The clerk should take the minutes of the proceedings, attendance, the voting and the decision. The minutes should be retained by the LA for at least 5 years.

i) After the Hearing

- The decision of the panel is binding on all parties.
- The decision, including the reasons for it, must be communicated to all parties by the end of the second working day after the hearing (cf. model letter 6 to parents).
- In cases of re-instatement, the panel must inform the Head of its decision forthwith and the date when the student must be re-instated.
- If the permanent exclusion is upheld, the clerk should notify the LA (whose responsibility it is to make alternative arrangements for the student to continue his/her education).
- It is for the governing body's to determine what should be included in the student's school record.

j) Remedies After the Hearing

- Complaint to the local Government Ombudsman.
- Judicial review.

Part 5:

Police Involvement and Parallel Criminal Proceedings

- Where an incident is also subject to a police investigation, that may subsequently lead to criminal proceedings, the evidence available to Heads and governing bodies etc. may be very limited.
- A decision to exclude will have to be made on the basis of the available evidence, but it should not be postponed on the grounds that criminal proceedings might ensue.
- The Discipline Committee will have to make its decision under the same circumstances.
- An appeal panel is required to consider whether to proceed with the hearing in the light of advice from the clerk and representations from the interested parties or to adjourn it pending the outcome of any police investigation or criminal proceedings. If the decision is to adjourn the hearing, the LA must make appropriate arrangements in the interim to enable the student to continue with his/her education.

SECTION B

BHSC GOVERNING BODY STATEMENT AND SCHOOL POLICY ON:

STUDENT DISCIPLINE

Student Discipline: Governors' Statement and School Policy

Governing Body Statement of general principles General

The governing body is charged with the duty to set the framework of the school's policy by providing a written statement of general principles relating to discipline, taking into account the needs of all students. Before providing the statement below the governing body has consulted the Head and parents of students at the school. It will be reviewed annually, or earlier if necessary.

The governors also expect the views of students to be taken into account when the Head draws up and reviews the school discipline policy.

School Ethos

The governors expect the school to be a place where all individuals are respected and their individuality valued, where students are encouraged to achieve, where self-discipline is promoted and good behaviour is the norm.

The School's Moral Code

Bebington High Sports College expects its students to the highest moral standards and to uphold good discipline. The school will not tolerate any bullying discrimination (racial, gender, age-related, religious etc) under any circumstances. Any student caught doing so will be punished within the guidelines of the appropriate school policy.

Rules of Conduct

The Head will draw up and review periodically a positive and constructive set of school rules that will:

- promote self-discipline and proper regard for authority among students
- encourage good behaviour and respect for others, and prevent all forms of bullying among students
- ensure students standards of behaviour is acceptable regulate students' conduct

Rewards and Sanctions

None of the school's punishments must be degrading or humiliating.

The governors expect all rewards and sanctions to be applied fairly and consistently.

The governing body has formally agreed that the following sanctions may be used in the school in appropriate cases:

- completion of work at home or extra work (in school or at home)

- carrying out useful tasks to help the school
- detention (in school hours or outside school hours, bearing in mind the legislative restrictions on detention the Education Act 1996, as amended in 1997)
- removal from the group/class or particular lesson
- withdrawal of break or lunchtime privileges
- withholding participation in educational visits or sports events which are not essential to the curriculum
- fixed and permanent exclusion

Responsibilities of the Head

The Head's role is to determine the detail of the standard of behaviour acceptable to the school, to the extent that this has not been determined by the governing body. The Head has the day-to-day responsibility for maintaining discipline in the school, which will include making rules and provision for enforcing them.

The Head has to:

- promote self discipline and proper regard for authority among students
- encourage good behaviour and respect for others, and to prevent all forms of bullying among students
- secure that the standard of behaviour is acceptable
- otherwise regulate the conduct of students

(SSFA s61 and Circular 10/99 para 5)

All staff are expected to encourage good behaviour and respect for others in students, and to apply all rewards and sanctions fairly and consistently. Well planned, interesting and demanding lessons make a major contribution to good discipline. Heads of Departments are charged with using their best endeavours to ensure that programmes of study and the methodology used in the Department are well thought out and of a consistently high standard

Standards of Behaviour

The school will set high standards of behaviour and endeavour to encourage good habits of work and behaviour from the moment a child enters the school. All staff are expected to promote self-discipline amongst students and to deal appropriately with any unacceptable behaviour.

Punctual attendance at school and lessons is required.

All absence must be explained and unexplained absence will be followed up.

It is understood that there will be variations in staff acceptance and tolerance of students' behaviour in class depending on the nature of the class and content of the lesson, but behaviour which does not allow constructive teaching and learning is totally unacceptable and all staff must ensure that such behaviour is not tolerated.

Through regular discussions at school council meetings we shall endeavour to ensure that staff apply all standards consistently and fairly.

Punishments

Sanctions should be applied when rewards have failed, or where it is necessary in the circumstances to show appropriate disapproval.

All staff must seek to ensure that punishments are proportionate to the offence, and should enable students to make reparation where possible. As far as possible the sanction applied should be as constructive as possible.

The sanctions allowed by the governing body are:

- completion of work at home or extra work (in school or at home)
- carrying out useful tasks to help the school
- detention (in school hours or outside school hours, bearing in mind the legislative restrictions on detentions in the Education Act 1996, as amended in 1997)
- removal from the group/class or particular lesson
- withdrawal of break or lunchtime privileges
- withholding participation in educational visits or sports events which are not essential to the curriculum
- fixed and permanent exclusion

CONFISCATING STUDENTS' PROPERTY

It is not against the law to confiscate a student's property. BHSC staff will confiscate student property if confiscation would be necessary in the circumstances as a disciplinary measure (or in the case of cigarettes, lighters, weapons etc, a security measure)

Any confiscation will be temporary or it might fall under the Theft Act 1968 which makes it a crime to confiscate property with the intention of permanently depriving the owner of it.

Confiscated property will be returned to the student, or parent, at the opportune moment, when the need for the disciplinary action has ended.

Teachers are obliged to take reasonable care of confiscated property. If it is damaged through a teacher's negligence the teacher could be held personally liable. Therefore, BHSC will ensure that confiscated property can be locked away, and a record taken of the owner, who confiscated it and when, and how long the confiscation is to last.

Involvement of Parents

Parents will be involved in discipline cases as appropriate. Individual staff should not involve parents without first informing the Head.

Parents are also encouraged to support good behaviour and positive habits in their children through the school's 'Home-School Agreement', and at parent meetings.

Involvement of Staff

The working of the school's policies and procedures will be discussed regularly at staff meetings. Staff will also be involved in discussions with students in form/tutor group time.

Staff will also be called upon from time to time to identify problems that may be behind any bad behaviour, and to suggest possible courses of action.

Training in behaviour management will be provided from time to time.

Involvement of Students

Staff should be aware that Article 12 of the UN Convention on the Rights of the Child allows children who are capable of forming views the right to express those views. The government's Circular 10/99 also suggests that students can help to reinforce behaviour policies by contributing to them.

The School Council will be involved in reviewing the school's anti-bullying policies and procedures and in the school's programmes to reinforce self-discipline and positive work and behaviour patterns. Discussions in Form/tutor group time will inform the deliberations of the School Council.

In particular the Deputy Head (Pastoral) and the SENCO will ensure that the needs of SEN students are properly taken into account, and their participation in the consultation process is assured.

Consultation

The Head will seek the widest possible agreement for this policy, and will report at least annually to the governing body on its implementation.

Equal Opportunities

All rewards and sanctions must be applied fairly and consistently and in accordance with the school's equal opportunities policy.

BHSC will publicise the policy at least once per year to students, parents and staff via the school web-site and on request. It will also be made accessible to parents whose first language is not English. The School will consider translating the policy as appropriate.

STUDENT EXCLUSION

In this policy the governors have determined that student exclusion in appropriate circumstances is a sanction that can be used in the school.

The governing body has taken account of the DCSF advice contained in 'Improving Behaviour and Attendance: guidance on exclusion from schools and Student Referral Units 2008'.

The Head and members of the school Disciplinary Committee have acquainted themselves fully of their duties under the policy, and the relevant DCSF guidance.

Aims

The governing body aims to:

- Not to interfere with the continuous education of a student beyond what is necessary to modify behaviour.

Procedures

These procedures follow the statutory advice in Circular 10/99, and the DCSF five part Guidance 'Improving Behaviour and Attendance'.

The Decision to Exclude

Students will only be excluded:

- in cases of a serious breach of the school's behaviour/discipline policy and if the continued presence of the excludee in the school would seriously damage the education or the welfare of other students or staff

Only the Head (or the teacher in charge of a PRU) can exclude, or the person in charge on the day, if they are absent from school).

Drug-related Exclusions

Any decision to exclude must be based on the criteria spelled out in the school's drug policy (which also cover the school's approach to legal drugs) and the school's drug co-ordinator will be consulted before a decision to exclude is made.

Lunchtime Exclusion

The Head can exclude a disruptive student for the duration of a lunch break.

Off-site Behaviour

In certain circumstances at the discretion of the Head the school will treat poor behaviour off-site as though it occurred on the premises.

Permanent Exclusion

A decision to exclude a student permanently, as befitting its gravity, should only be taken as a last resort when a wide range of strategies for dealing with disciplinary offences has been employed to no avail or if an exceptional 'one-off' offence has been committed, e.g.:

- serious violence, actual or threatened, against a student or member of staff;
- sexual abuse or assault;
- supplying an illegal drug;
- carrying an offensive weapon.

Or any other one-off offence considered by the Head to be an exceptionally serious one.

Liaison with Parents

At all stages the Head is expected to seek parental co-operation.

Equal Opportunities

In making decisions about exclusion the Head and Discipline Committee will take into account any special educational needs, disabilities, gender, and cultural differences that may be relevant to the case. The Head will consider the advice in the DCSF 'Improving Behaviour and Attendance'¹, and any published codes of practice.

Monitoring and Review

The Head will report at LA annually on the number and type of exclusions.

The Head will report to the full governing body termly on the number and type of exclusions.

Before deciding to exclude a student the Head will:

- ensure that an appropriate investigation has been conducted;
- ensure that all the relevant evidence has been considered;
- give the student an opportunity to be heard
- consult other relevant people if necessary

Having considered these matters the Head will make a decision based on the balance of probability.

Factors to be considered before an exclusion

- an appropriate investigation has been conducted;
- all the relevant evidence has been considered;
- the student's version has been heard;
- if appropriate, other people have been consulted (not a member of the Discipline Committee)

If the balance of probabilities has been established, the student may be excluded.

Alternatives to exclusion

- a restorative justice process - whereby the harm caused to the 'victim' can be redressed;
- internal exclusion (removal from class, but not the site);
- a managed move to another school.

When Exclusion Is Inappropriate

In cases of:

- minor breaches of discipline;
- poor academic performance;
- truancy or lateness;
- pregnancy;
- non-compliance with uniform regulations; and in response to
- the (unacceptable) behaviour/attitude/conduct of a student's parents.

Exclusions can either be for a Fixed term or Permanent.

Indefinite exclusions are not permissible by law.

Fixed Term Exclusion

The Head is permitted to exclude a student for one or more fixed term periods not exceeding 45 school days in any one school year and for no more than 5 school days in one period.

The school will continue to provide education for an excluded student (whilst he/she remains on roll) up to the sixth day. The Head in consultation with the relevant members of staff will consider the following:

- how the student's education will continue;
- how his/her problems might be addressed in the interim;
- reintegration post-exclusion.

Procedure for Excluding a Student

Informing Parents about the Exclusion

- The Head should inform parents without delay (by telephone, with a follow-up letter within one school day) and should be given the following information:
- in cases of fixed term exclusions, the length of the exclusion;
- in cases of permanent exclusion, that it is a permanent exclusion;
- the reasons for the exclusion;
- their right to make representations to the Discipline Committee;
- the name of the person to be contacted, if they wish to make representations.

The letter to parents should also state: the latest date by which the Discipline Committee must meet to consider the case;

- the parent's right of access to the student's school record;
- the date and time when the student should return to school (with a fixed term exclusion) or the number of lunch-times for which the student is excluded (with lunch-time exclusions);
- with a permanent exclusion, its immediate effect and any relevant previous history;

- arrangements for the setting and marking of work (it is the parent's responsibility to ensure that work sent home is completed and returned to school);
- the name and telephone number of the LA officer to be contacted for advice;
- the telephone number of ACE (the Advisory Centre for Education).

The school will use model letters in the DCSF Guidance 'Improving Behaviour and Attendance', as exemplars.

Informing the Discipline Committee and the LA

The Head will inform the Governors' Discipline Committee and the LA within one school day of:

- permanent exclusions;
- exclusions totalling more than 5 school days or 10 lunch-times per term;
- exclusions necessitating a student missing a public examination.
- The Head must inform the Discipline committee and the LA of fixed term exclusions amounting to 5 or fewer school days or 10 or fewer lunch-times (or half days) in total per term on a termly basis.

Heads must include the following in his/her exclusion report;

- the name of the student;
- the duration of the exclusion;
- the reason(s) for the exclusion;
- the student's age, gender and ethnicity;
- whether the student is statemented or is on School Action or School Action

Plus:

- whether he/she is in Local Authority care.

The Responsibilities of the Discipline Committee.

The Discipline Committee

The governing body will appoint a Discipline committee at the beginning of each academic year, and appoint a chair and a clerk.

- The Discipline Committee will review all exclusions and consider any representations from parents. The Committee will consider whether reinstatement is a practical option;
- The Committee may consider more than one exclusion at any one meeting where appropriate
- in cases where a student will miss a public examination as a result of exclusion, the Discipline Committee should endeavour to meet before the date of the examination. In extremis with fixed term exclusions, the chair of the Committee may consider the exclusion on his/her own and may reinstate.

Discipline Committee Meetings re. Exclusions

On being informed of an exclusion by the Head, the clerk or chair must:

- with fixed term exclusions totalling fewer than 6 school days in one term, convene a meeting of the Discipline Committee to consider representations from the parents (if these have been made), but the student cannot be reinstated;
- in the case of fixed term exclusions totalling more than 5, but not more than 15 school days, in any one term, convene a meeting to review the exclusion if the parents have asked to make representations between the 6th and the 50th school day after being notified of the exclusion;
- in cases of permanent exclusion or where one or more fixed term exclusions add up to more than 15 days in any one term, arrange a meeting to review the exclusion between the 6th and the 15th school day after being notified of the exclusion;
- invite the parent, Head and an LA officer to attend at a mutually convenient time and place;

and should

- request written statements before the meeting;
- circulate any such written statements (including any statements from witnesses) and a list of those due to attend in advance to all interested parties.

The meeting should be conducted in accordance with the principles set out in Part 4 (cf. below). The parent may be accompanied by a friend or a legal representative. The excluded student would usually be allowed to attend and to speak, if the parent requests this. A student aged 18 or over is allowed to attend and to make representations in his/her own right.

The Committee must comply with the statutory time limits, but is not absolved of its legal duties in the event of non-compliance (i.e., its decision remains valid even if it was made out of time).

The Discipline Committee will review the working of this policy, make an annual report to the governing body, and make recommendations as necessary to the governing body.

GOVERNORS' DISCIPLINE COMMITTEE

Constitution

The governing body of all maintained schools must set up a Discipline Committee made up of three to five governors (not including the Head) to review the school's use of exclusion and appoint a clerk to provide advice on the exclusions process and handle the administrative arrangements. If a governor has a connection with the student that could affect his or her ability to act impartially he or she should not serve at a hearing.

Responsibilities

The Discipline Committee cannot direct re-instatement if the exclusion is fewer than five days, but they should consider any representations from the parent. If the exclusion is either for more than five days in a term, or the student may lose the opportunity to take a public examination, the Discipline Committee should decide whether the student should be reinstated. If the student has been excluded for more than five days in a term through a number of short exclusions, the Discipline Committee should meet. They should meet again if the same student is excluded again.

LA Role

The LA has a role in advising the Discipline Committee of the appropriateness of the exclusion. LA officers should be able to give the Committee advice such as information about how other schools in the Authority have responded to similar incidents.

Procedures of the Committee

The Discipline Committee must:

- consider the circumstances of the exclusion
- consider any representations from the parents of the student (or the student if over 18), or the LA
- enable such representations to be heard at the hearing

Under the Exclusion from School (Prescribed Periods) Regulations 1999 the committee must take these steps no earlier than six days from having been informed of the decision to exclude and no later than the following:

- 15 days when the exclusion is permanent or for a fixed period of no more than 15 school days, or
- 50 days when the exclusion is for a fixed period of 15 days or fewer

If the student may miss a public examination because of the exclusion the governors should try as far as is practicable to take the above steps before the examination date.

The Committee should take into account the two documents from the DCSF which became operative in January 2003 - 'Improving behaviour and attendance: guidance on exclusions from

schools and PRUs', and 'Working Together on School Exclusions', when considering their decision. (see QG CD Document PD7 Exclusions)

The Secretary of State has stated in the guidance that governing bodies should not normally direct re-instatement purely on the basis of technical defects, unless the process was so flawed that justice was clearly not done.